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**(2019) 02 CAT CK 0080**

**In the Central Administrative Tribunal**

**Case No : Original Application No. 1770 Of 2014**

Pratap Kumar Bisi

APPELLANT

Vs

Union Of India

RESPONDENT

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**Date of Decision :** 06-02-2019

**Acts Referred:**

**Citation :** (2019) 02 CAT CK 0080

**Hon'ble Judges :** L. Narasimha Reddy, J; Sh. Mohd. Jamshed, J

**Bench :** Division Bench

**Advocate :** S K Dass, A K Singh

**Final Decision :** Allowed

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## **Judgement**

L. Narasimha Reddy, J

1. The applicant was working as Deputy Director General in the Regional Office, Bhubaneswar, Ministry of Statistics & Programme Implementation. Disciplinary proceedings were initiated against him by issuing a charge memo dated 03.05.2011. It was alleged that he submitted fake bills for his boarding & lodging charges and other items, and misused the power in compelling the department to purchase certain items, such as camera. Certain other allegations were also made. The applicant submitted his explanation and not satisfied with that, the departmental inquiry was conducted. The Inquiry Officer (IO) submitted his report on 15.06.2012. Out of 7 articles of charge, he held that articles of charge I & VI are proved, articles II to V are partially proved and article of charge VII is not proved. Since the applicant retired from service during the pendency of proceedings, the disciplinary authority passed the order dated 10.10.2013 imposing the penalty of withholding of 10% of the monthly pension for a period of five years. Same is challenge in this O.A.

2. The applicant contends that the disciplinary authority did not take into account, the fact that the substantial number of articles of charge were not proved and despite that, the penalty, which has serious implications, was

imposed.

3. The respondents filed the counter affidavit opposing the O.A. It is stated that except the one article of charge, all articles of charges were proved partly or in entirety. It is also stated that the disciplinary authority has imposed the punishment, which is commensurate with the charges held proved against the applicant.

4. We heard Mr. S K Dass, learned counsel for applicant and Mr. A K Singh, learned counsel for respondents.

5. At the outset, we take serious exception to the manner in which the applicant filed the O.A. It runs into 700 pages. By all means, the applicant utilized the stationery, which, he may have procured from the Department itself. No sensible person would incur that much of expenditure to challenge an order, which has imposed a penalty of just withholding of 10% of the monthly pension. This is not an isolated instance.

6. The articles of charges against the applicant read as under:-

"Article I

That said Shri P.K. Bisi while working as Deputy Director General in the Regional Office, Bhubaneswar has furnished a fake bill bearing no.5356 amounting to Rs.2250/- for his 3 days boarding & lodging charges from 03-09-2008 to 05-09-2008 at Hotel New Jasmine, Gandarpur, Cuttak.

Shri P.K. Bisi, Deputy Director General had thus committed grave misconduct and violated Rule 3 (1) (i), (ii) & (iii) of the CCS (Conduct) Rules, 1964. Article II

That the said Shri P.K Bisi while working as Deputy Director General in the Regional Office, Bhubaneswar submitted a fake bill amounting to Rs.800/- for hiring of vehicle on 01-05-2009. The bill neither contains the place of visit nor the purpose of visit.

Shri P.K. Bisi, Deputy Director General had thus committed grave misconduct and violated Rule 3 (1) (i), (ii) & (iii) of the CCS (Conduct) Rules, 1964. Article III

That the said Shri P.K. Bisi while working as Deputy Director General in the Regional Office, Bhubaneswar has submitted food bills amounting Rs.554/- dated 28th August 2009 of M/s. Reliance Fresh Ltd., Bhubaneswar in connection with his field inspection of Jagatpur. Another bill dated 2nd September 2009 amounting to Rs.505/- of M/s Reliance Fresh Ltd., Bhubaneswar was presented by Shri Bisi as food bill in connection with the field inspection of Tarapur. Similar, bill dated 09-09-2009 amounting Rs.519/- of M/s. Reliance Fresh Ltd. was also presented as food bill in connection with his filed inspection of Madhab. Whereas, the time of items purchased at M/s Reliance Store, Bhubaneswar by Shri P.K. Bisi, Deputy Director General on 28th August 2009;

2nd September, 2009 and 9th September 2009 i.e. at his Hqrs. Office, contradict

the timings shown of his presence in his tour diary at the places of field inspection viz. at Jagatpur, Tarapur and Madhab respectively.

Shri P.K. Bisi, Deputy Director General had thus committed grave misconduct and violated Rule 3 (1) (i), (ii) & (iii) of the CCS (Conduct) Rules, 1964. Article IV

That the said Shri P.K. Bisi while working as Deputy Director General in the Regional Office, Bhubaneswar has misused his official position and pressurized his subordinates to present those purchase bills for reimbursement where the purchases were made by him. In one of the case, Shri P.K. Bisi, Deputy Director General on 24-01-2009 had purchased certain items from M/s. Reliance Fresh Limited, Bhubaneswar through his Credit Card and subsequently presented the bill amounting Rs.2365/- against which the payment was released in the name of Ms. Sangamitra Jena, Lower Division, as desired by him.

Shri P.K. Bisi, Deputy Director General had thus committed grave misconduct and violated Rule 3 (1) (ii) & (iii) of the CCS (Conduct) Rules, 1964. Article V

That the said Shri P.K. Bisi while working as Deputy Director General in the Regional Office, Bhubaneswar has misused the vehicle hired for pick & drop facility and no log book was ever maintained between the period November 2007 to August 2008.

Shri P.K. Bisi, Deputy Director General had thus committed grave misconduct and violated Rule 3 (1) (ii) & (iii) of the CCS (Conduct) Rules, 1964. Article VI

That the said Shri P.K. Bisi while working as Deputy Director General in the Regional Office, Bhubaneswar, has failed to discharge his duty as reporting officer for ACR of his subordinates. Shri P.K. Bisi delayed the reporting and dispatch of those Annual Confidential Reports which were to be reviewed by the then ADG who was to retire w.e.f. 30-09-2009 on attaining the age of superannuation. As some of the ACRs reported by him contained adverse remarks, delay in submitting such ACRs deprived the Reviewing Authority to consider such ACRs for review. This shows the malafide intention of Shri P.K. Bisi, Deputy Director General.

Shri P.K. Bisi, Deputy Director General had thus committed grave misconduct and violated Rule 3 (1) (ii) & (iii) of the CCS (Conduct) Rules, 1964. Article VII

That the said Shri P.K. Bisi while working as Deputy Director General in the Regional Office, Bhubaneswar pressurized his subordinates to incur expenditure on those items which were primarily for his own personal use and not within his vested powers. One Sony Cybershot Camera costing Rs.11990/- was purchased on 20-12-2007 whereas it was not kept in office and was shown in records as issued to Deputy Director General for official use. On 28-03-2008, one Samsung Colour Television and one Samsung Refrigerator costing Rs.11500/- & Rs.9300/- respectively were purchased from M/s. Raj Electronics, Bhubaneswar. Both the items were directly delivered to Deputy Director General's residence from M/s. Raj Electronics, Bhubaneswar. The delivery of these items directly at his

residence indicates misuse of his authority.

Shri P.K. Bisi, Deputy Director General had thus committed grave misconduct and violated Rule 3 (1) (ii) & (iii) of the CCS (Conduct) Rules, 1964."

7. After conducting the inquiry, the IO submitted his report holding that the articles of charge I & VI are proved, those in II to V are partially proved and article of charge VII is not proved. The penalty of withholding of 10% in the monthly pension for a period of five years was imposed.

8. Though we do not act as an appellate authority over the order of punishment, we cannot ignore the fact that the disciplinary authority did not undertake any discussion whatever with reference to the report of the IO. It is stated that the punishment, as suggested by the Union Public Service Commission (UPSC), was imposed. Hardly there was any independent application of mind by the disciplinary authority. Further, the effect of the report of the IO, wherein it was held that articles of charge VII is not proved and articles of charge II and VII were partially proved, was not discussed. Though in the ordinary course of things the disciplinary authority has to be required to pass the fresh order, we are of the view that such an exercise may not be advisable at this stage. We feel that the ends of justice would meet if the period of punishment is reduced to three years from five years.

9. We accordingly partly allow this O.A., modifying the punishment against the applicant to be the one of withholding of 10% of the monthly pension to be in force for a period of three years. If any amount, in excess of the said punishment has been deducted, the same shall be refunded to the applicant within three months from the date of receipt of a copy of this order.

There shall be no order as to costs.